IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY NINTH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 8119 of 2004

Between:

1 Segu Shanmukharao S/o. Venkaiah
R/o. D.No. 4/276, D. Lakshmi Sai Nagar, Nawabpet, Nellore.
2 Veemuru Subbarao, S/o. Subbaiah
R/o. D.NO. 5/164, Sali Street, Nellore.
3 K.V. Ramanaiah S/o. Venkata Subbaiah
Ro. D.No. 3/393, Lakshmiopuram, Nellore-2.
4 M. Ratnam S/o. Chenehaiah,
R/o. D.No. 4/276, Lakshmisai Nagar, Opp. B.V.S. Girls High School, Nawabpet, Nellore-2.
5 V. Naga Jyothyi W/o. Prabhakar Rao,
R/o. D.No. 5/65, Pappula Street, Nellore-2.
6 D. Malyadri, S/o. Subbaramaiah,
R/o. D.No. 3/242, Lakshmipuram, Nellore -2.
7 M. Sudhakar, S/o. Venkata Subbaiah, D.No.1/61, B.R. Street, Nawabpet, Nellore-2.
8 M. Rosi Reddy, S/o. Pulla Reddy,
R/o. D.No. 5/59, Puppula Street, Nellore-2.
9 M. Subbarao, W/o. Venkata Subbaiah,
R/o. D. No. 6/616, Arunachalam Street, Stonehousepet, Nellore.
10 P. Sridhar, S/o. Krishnaiah
R/o. D.No. 4/109, Nawabpet, R.K.Nagar, Nellore-2.
11 Sriram Balasubbarayudu, S/o. Peeraiah,
R/o. D.No. 5/360, Stonehousepet, Nellore-2.
12 K. Sindhu, S/o. Subbarao,
R/o. Vinjamoor Village and post, Nellore District.

..... PETITIONERS

AND

1 The Commissioner of Endowments, Endowments Department, A.P. Hyderabad.
2 The Executive Officer, Sri Thalagiri Rangatha Swamywari Temple, Ranganayakulapeta, Nellore-1.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or writ, more particularly one in the nature of writ of Mandamus declaring the action of the respondents in not receiving the balance sale consideration from the petitioners in pursuance of the public auction held on 16.10.99 and not registering the respective house plots shown in the annexure in favour of the petitioners as illegal, arbitrary, unjust and contrary to the orders dt. 25.4.2003 of this Hon'ble Court passed in W.P. No. 25347/99 and consequently direct the 2nd respondent to receive the balance sale consideration and register the respective plots in factor of the petitioners.

For the Petitioner: MR.V.SUDHAKAR REDDY, Advocate

For the Respondents: GP FOR ENDOWMENTS

The Court made the following ORDER:

The writ petition is filed by the petitioners, who are twelve in number, praying for writ of *mandamus* declaring the action of the respondents in not receiving the balance of sale consideration from them in pursuance of the public auction held on 16.10.1999 and in not registering the respective house plots, shown in the annexure, in their favour as illegal, arbitrary, unjust and contrary to the orders of this Court dated 25.04.2003 in W.P.No.25347 of 1999 and consequently to direct the second respondent to receive the balance of sale consideration and register the respective plots in their favour.

2. According to the petitioners, the second respondent got approved a layout for 64 plots and they were put for public auction. As per the terms and conditions of auction, the participants shall have to deposit a sum of Rs.10,000/- per plot and on successful bidding, the bidder has to deposit 1/3rd of the bid amount on the very same day and the balance of 2/3rd shall be paid within 15 days from the date of confirmation of sale by the first respondent. It is stated that the petitioners are the bidders. The second respondent issued a communication dated 17.11.1999 stating that the first respondent approved the sale of house plots confirming proceedings dated 01.11.1999. Therefore, the petitioners were called upon to pay 2/3rd of the balance of sale consideration within 15 days, failing which, the auction would be cancelled and the 1/3rd amount already paid would be forfeited. But contrary to the assurance and information given by the second respondent, it appears that a press item was published in 'Eenadu', Telugu daily, stating that the public auction was conducted in hurry without obtaining the approval of the layout and the Municipality has already given out that they are not going to approve

the building plans in the said location. Therefore, the petitioners approached this Court by filing W.P.No.25347 of 1999 when the second respondent issued threatening notices proposing to forfeit the amount already paid. The said writ petition was disposed of by this Court on 25.04.2003 giving option to the petitioners that whoever is willing to purchase the house plots, they can do so by paying the balance amount. In fact, it is stated that as per the directions of this Court in earlier writ petition, 2/3rd of the amount was put in the Fixed Deposit in the respective names of the petitioners and receipts are deposited with the first respondent. The said receipts were returned by the first respondent after disposal of the earlier writ petition. But, however, it is the case of the petitioners that after the disposal of the writ petition, the petitioners proposed to purchase the land as per the auction terms and therefore, made a request to the second respondent. But, however, the second respondent was not willing to accept the balance of 2/3rd amount and execute the registered sale deeds. Therefore, the petitioners have come up with the present writ petition.

3. According to the learned counsel for the petitioners, when once the petitioners were declared as successful bidders for purchase of the plots in the public auction conducted by the second respondent, second respondent is bound by the said proceedings especially when the said sale was confirmed even by the first respondent. Therefore, the action of the second respondent in not accepting the balance amount and not registering the plots is illegal and without jurisdiction.

4. On behalf of the second respondent, a counter-affidavit has been filed. Though various details are furnished, but, in sum and subsistence is that the second respondent is prepared to accept the 2/3rd of the amount along with interest and after payment of said balance amount he is prepared to accept if the amount of Fixed Deposit is paid together with

the accrued interest in addition interest from the date of encashment of the fixed deposit interest

@ 6% is paid.

5. Heard both sides and considered the material on record.

6. In view of the willingness shown by the second respondent to accept the 2/3rd balance amount together with interest, the writ petition is disposed of directing the petitioners to deposit the 2/3rd of the amount which they have deposited in the FDRs, with accrued interest in addition to @ 6% on the 2/3rd amount from the date of encashment of the Fixed Deposit till the date of payment to the second respondent and the same is to be paid within a period of four weeks from today. On such payment, the second respondent is directed to execute necessary documents transferring the title deed in favour of the auction purchasers at the cost of the petitioners i.e., stamp duty and registration fee are to be payable by the petitioners. It is also made clear that if any betterment or any other developmental charges are payable with reference to the plots purchased in auction by the petitioners, the same has to be paid by the petitioners, who are liable to pay and not by the respondents.

7. The writ petition is accordingly disposed of with the above directions. No costs.

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29.06.2004
Note: Furnish CC in one week
B/o
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To

1 The Commissioner of Endowments, Endowments Department, A.P. Hyderabad.

2 The Executive Officer, Sri Thalagiri Rangatha Swamywari Temple, Ranganayakulapeta, Nellore-1.

3 Two CCs to G.P. for Endowments, High Court of A.P. Buildings, Hyderabad (OUT)

4 Two CD Copies.